

CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for an Emergency Outlet from Devils Lake, North Dakota, to the Sheyenne River.

AGENCY: U.S. Army Corps of Engineers, DoD

ACTION: Revised Notice of Intent

SUMMARY:

Devils Lake is a terminal lake located in northeastern North Dakota. Devils Lake has a long history of a wide range of fluctuating lake levels. Since 1993, the lake has risen about 25 feet. Rising lake levels have resulted in damages to homes, businesses, infrastructure, transportation systems, and land uses. Significant expenditures of Federal, State, and local funds have been required to relocate structures and to raise and strengthen roads and levees. While these efforts will provide immediate protection, there is great concern that the lake could continue to rise. The Devils Lake basin is a subbasin of the Hudson Bay drainage system. Although Devils Lake has not contributed to the Hudson Bay drainage for many

centuries, there is a potential for the lake to rise to its natural outlet elevation if the recent climate patterns persist. There is a potential for substantial damages to occur along the Sheyenne River, depending on the magnitude of the overflow event.

Purpose and Need. The purpose of the proposed action is to reduce the flood damages related to the rising lake levels in the flood-prone areas around Devils Lake and to reduce the potential for a natural overflow event.

Proposed Action. The proposed action is the construction of an outlet from Devils Lake, North Dakota, to the Sheyenne River.

FOR FURTHER INFORMATION:

Questions concerning the DEIS can be directed to: Colonel Kenneth S. Kasprisin, District Engineer, St. Paul District, Corps of Engineers, ATTN: Mr. Robert Whiting, 190 Fifth Street East, St. Paul, Minnesota 55101-1638.

SUPPLEMENTARY INFORMATION:

The 1997 Emergency Supplemental Appropriations Act provided up to \$5 million under the Flood Control and Coastal Emergency account to conduct preconstruction engineering and

design (PED) and prepare an associated Environmental Impact Statement (EIS) for an emergency outlet at Devils Lake. A Notice of Intent to prepare an EIS for an outlet from Devils Lake to the Sheyenne River under Public Law 105-18 was published in the Federal Register on 21 October 1997. That study was not completed.

The Energy and Water Development Appropriations Acts of 1998, 1999, and 2000 included funds for construction of the Devils Lake project subject to a determination of economic justification, compliance with the National Environmental Policy Act (NEPA) of 1969, compliance with the Boundary Waters Treaty Act of 1909, and technical soundness. No funds were provided to the Corps under these authorities.

An amount of \$2 million was provided from a supplemental appropriation in Fiscal Year 2000, and another \$4 million was included in the Fiscal Year 2001 appropriations. These funds are for preconstruction engineering and design of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River. The Corps is issuing a revised Notice of Intent because of the changed authority and funding.

Proposed Action. The proposed action in the authorizing legislation consists of an outlet to the Sheyenne River. Many potential outlet routes and concepts have been evaluated in prior studies. The route that has the greatest

potential for being implementable is the Peterson Coulee route. Therefore, it is likely that, following an initial screening, this will be the outlet alternative that will be evaluated in detail. Further consideration would be needed to determine the recommended outlet operation plan. The evaluation would address an array of operating plans ranging from a discharge of 300 cubic feet per second (cfs) constrained by downstream channel capacity and water quality standards, to a 480 cfs unconstrained discharge. Outlet operation would be limited to 7 months of the year, from May through November.

Alternatives to be Investigated. The Corps will examine the environmental impacts of the alternatives in an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). The EIS will identify and evaluate alternatives to the proposed action, and will evaluate in detail only those alternatives that meet the purpose and need identified previously. Alternatives include the following:

Future Without the Proposed Project

The measures identified with this alternative are the base condition upon which other alternatives are to be compared for impact assessment under NEPA. This alternative assumes that the types of emergency measures currently being pursued

in the project area would continue to be implemented as necessary due to rising lake levels. These emergency measures include such actions as raising the levees protecting the City of Devils Lake and relocating homes if the lake level continues to rise. If technically and economically feasible, emergency measures may also include building temporary levees, raising selected roads and railroads (within limits of reasonable safety acceptance), and protecting or relocating utilities. A continuation of the current level of upper basin storage and measures at the location of a natural overflow to minimize erosion will also be considered as potential features of the future without the proposed project. For the portion of the cost effectiveness evaluation using a scenario approach, it will be assumed that the current wet cycle will continue, as evidenced by U.S. Geological Survey and University of North Dakota studies, to the point of naturally overflowing into the Sheyenne River. Proposed actions by the State of North Dakota, such as an overflow to Stump Lake and a temporary outlet to the Sheyenne River along the Twin Lakes route, will not be assumed to be included in the future without conditions alternative at this time. If either or both are implemented, the evaluation of alternatives will be reviewed to determine what measures are needed to complete NEPA with this changed base condition.

Upper Basin Management

This alternative would examine taking further measures in the upper basin to reduce inflow into the lake, such as providing storage through retention structures, wetland restoration, or land use change.

Expanded Infrastructure Measures

Currently, roads are serving as barriers to the rising and expanding waters of Devils Lake. These roads are acting as dams; however, they were not constructed to function as dams. This presents the possibility of safety concerns for road users and people living in areas protected by the roads. This alternative will examine taking additional measures beyond those described in the future without the proposed action alternative to ensure a safe level of flood protection within the basin.

Combinations and Sensitivity Analysis

In addition to evaluation of the above alternatives independently, several combinations of these alternatives will also be addressed. To better understand the sensitivity of assumptions used for the future without a proposed project condition, the selected alternative will be

evaluated in comparison to at least three other base conditions. The other three scenarios are as follows:

- 1) No Additional Emergency Measures will be done in the Devils Lake basin.
- 2) A more moderate scenario for future lake stage (maximum elevation 1455).
- 3) An even more moderate scenario for future lake stage (maximum elevation 1450).

The DEIS will discuss the proposed action and alternatives. There will be an identification and evaluation of alternatives, additional supplemental scoping, a discussion of the direct impacts of the proposed action, and a general discussion of the need for monitoring project operation to determine impacts and mitigation needs.

Significant issues and resources to be identified in the DEIS were determined through coordination and scoping activities with responsible Federal, State, Canadian, and local agencies; the general public; interested private organizations and parties; and affected Native Americans during the previous scoping process. This scoping was conducted in conjunction with the previous Devils Lake basin studies. Significant issues identified through previous scoping activities for discussion in the DEIS are as follows:

1. Natural resources including: aquatic, wildlife, vegetation, wetlands, and riparian areas;
2. Cultural resources;
3. Water quality and quantity, groundwater, erosion, sedimentation, and induced flooding;
4. Federally and State listed threatened or endangered plant or animal species;
5. Social and economic resources, soils, and downstream water users;
6. Downstream intrastate, interstate, and international resources; and
7. Native American and Tribal Trust resources and responsibilities.

Supplemental scoping/public involvement will be used to help identify any additional concerns and issues. Anyone who has an interest in participating in the development of the DEIS is invited to contact the St. Paul District, Corps of Engineers. A notice of any meetings will be provided to interested parties and to local news media.

Measures to address the project purpose and need are considered to be major in scope. Project features have the potential to result in significant impacts. The Corps of Engineers' environmental review will be conducted according to the requirements of the National Environmental Policy Act of 1969, National Historic Preservation Act of 1966, Council on Environmental Quality Regulations, Endangered Species Act of 1973, Section 404 of the Clean Water Act, and applicable laws and regulations.

It is anticipated that the DEIS will be available to the public in February 2002. The EIS will be supplemented as appropriate.

DATE

Kenneth S. Kasprisin
Colonel, Corps of Engineers
District Engineer